

The replication of the 1979 Park study (Appendix C of the *Economic Analysis*) offers no reliable basis for discounting the UHF handicap or positing its disappearance. Park had hypothesized and shown the the UHF handicap was offset partially by cable carriage.<sup>16</sup> The replication found that the UHF handicap "disappeared entirely" for UHF stations (except -- anomalously -- for UHF affiliates).<sup>17</sup> First, 35-40 percent of viewers are not cable subscribers. Whatever benefit cable might confer, it does nothing to offset the UHF handicap in 35-40 percent of the television households in this country.

Second, as noted above, cable carriage conterminous with off-air signal coverage, which is all the law generally requires, reflects, but hardly remedies the significant differences in off-air signal coverage areas between VHF and UHF stations.<sup>18</sup>

Third, the original Park study and the replication say nothing about the UHF handicap to the extent it is rooted in the disparate coverage areas of UHF and VHF stations. In both studies, only counties within 35 miles of a television city were included. Some 41 fringe area counties were dropped by Park in 1979, and the replication used the same sample counties. Thus, the studies only could reflect the potentially better reception of UHF signals on cable systems located well within their off-air coverage areas. In no way does it show that cable carriage reduces the UHF handicap by extending the area in which the station may be viewed.

Fourth, the author of the *Economic Analysis* fails to explain an obviously anomalous result. The replication results indicate that the UHF handicap for UHF affiliates remained unchanged since the original Park study, but that the handicap for other UHF stations had disappeared. This result, of course, is extraordinarily convenient for the networks. Thus, rather than do more than make self-serving, illogical guesses, they make no genuine effort to root out the anomaly.<sup>19</sup> They only observe that:

[B]oth Park's and the present results may be affected by the nature of the sample of markets, and this may explain the unexpected persistence of a UHF handicap for affiliated stations. A more representative sample doubtless would confirm the common sense hypothesis that the UHF handicap has been greatly reduced for all classes of stations.<sup>20</sup>

However, a more representative sample also might show that the disappearance of the UHF handicap for independent stations has not disappeared at all.

Fifth, unlike Park, the replication made no distinction between local and distant signals. Thus, an attractive, but distant independent UHF station, might be viewed and valued heavily, particularly if it had regional as well as national interest. In the Southeast, of course, WTBS is a UHF independent, the reach of which is extended

dramatically and widely by cable. It is a powerful in-region superstation. viewing to WTBS would heavily skew the attractiveness indices for UHF independents. It would at the same time, however, rob the results of any reliability with respect to local UHF independent stations. This would explain why UHF independents appear to suffer no more from the UHF handicap, while UHF affiliates still labor under its burden.<sup>21</sup> This is a much more plausible explanation of the "unexpected" result than offered in the *Economic Analysis*. In any event, more than glib, self-serving guesses should be provided before any weight is accorded to the replication of the Park study.

Together, the increase in independent and low power stations represents a huge increase in the demand for video programming.<sup>22</sup>

The growth of these video outlets [cable, video dialtone, DBS, MMDS, SMATV, TVRO], together with increases in independent stations and cable penetration, has enhanced the potential for new broadcast networks, increased the demand for video programming, and increased competition for viewers among video media.<sup>23</sup>

True as this may be, it blurs the focus of inquiry, which, by definition, is the *prime time* access rule. The true issue of concern is the demand for expensive network quality *prime time* programming. The purpose of the Prime Time Access Rule was to open and stimulate a market for first-run syndicated prime time programming. It has succeeded in three respects. First, first-run programming is produced and syndicated for prime time use each night by local television stations, particularly, network affiliates. Thus, whereas little, if any such programming was produced prior to PTAR, a number of firms compete fiercely in the prime access first-run syndication market. Given the very limited number of slots to fill, only a few may succeed at any given time. Nonetheless, no entry barriers exist, and considerable competition for access program slots continues year-in and year-out.<sup>24</sup>

Second, an increasing number of independent stations, buoyed financially by PTAR, have been able to underwrite the risk of first-run, prime time syndicated program production.<sup>25</sup> Whereas such programs as *Baywatch* rarely achieve ratings comparable to that of network prime time programming, they precisely fulfill the goal of the Prime Time Access Rule to promote first-run, prime-time syndicated programming.

Third, the Prime Time Access Rule, by enhancing the financial performance of independent stations, has created a base of financially more secure independent stations, which now are exploited increasingly to form new broadcast television networks. The emergence of these network -- Fox, UPN, and Warner Bros. -- also has led to production of more expensive, network-quality prime time programming. Again, none of these emerging networks has achieved competitive parity with the three original networks, largely due to their predominantly UHF affiliate bases. None provides as much programming.<sup>26</sup> None achieves ratings comparable to those of ABC, CBS, or NBC.<sup>27</sup>

Thus, the Prime Time Access Rule is having the intended effect on *prime time* television. Premature administration of the *coup de grace*, however, would prevent complete realization of the benefits conferred by the Prime Time Access Rule, particularly with respect to the promotion and development to maturity and parity of the three emerging networks.

PTAR itself appears to have had little if any effect on overall network shares of the viewing audience, since the average share of ABC, CBS, and NBC changed little in the first years after the rule's adoption, and was still above 30 in the 1979/80 season.<sup>28</sup>

If the Prime Time Access Rule has had no direct effect on network shares, why then would they argue so strenuously for its repeal? The next sentence of the *Economic Analysis* may suggest an explanation:

Thereafter, the effects of increased competition from cable, independent stations and other media became apparent, causing ABC's, CBS's, and NBC's average share of prime time viewing to fall almost continuously.<sup>29</sup>

This suggests that competition from independent stations adversely affects the networks (as, no doubt, it has), but, again, in the network view, PTAR did nothing to stimulate the growth of independent television.<sup>30</sup> So, if PTAR left network audience shares unaffected and was not responsible for "increased competition from... independent stations," why are the networks continuing to assert that PTAR has been detrimental to their interests?

The answer is simple. PTAR has stimulated growth of independent television, thereby creating direct, if handicapped, competition to the networks. Now, the networks see their worst nightmare coming true. The growth and development of independent television, forming potential affiliate bases for new networks! Nothing could be more inimical to the networks than such direct competition from other networks. Eliminating the Prime Time Access Rule now would undermine the ability of the emerging networks to approach any semblance of competitive parity with the three traditional networks.<sup>31</sup>

Therefore, the networks must comprehend that the Prime Time Access Rule has promoted development of independent television and now lays the foundation for emergence of directly-competitive networks. Otherwise, they would have no reason to care whether the Prime Time Access Rule remained in effect.<sup>32</sup>

In 1970, ABC, CBS, and NBC each had a share of national television advertising revenues equal to roughly one third of the total network share of 57.3 percent, or 19.1 percent each. Ever since, the average network share has trended downward relative to national spot, national cable, and national syndicated advertising. By 1993 the ABC, CBS, and NBC average was only 14.6 percent of national television advertising. ABC, CBS, and NBC cannot be said to dominate national television advertising even collectively, much less individually.<sup>33</sup>

One more time -- this proceeding involves the *prime time* access rule. No mention is made of the networks' share of prime time television advertising. The networks' dominance of prime time advertising is amply demonstrated by INTV's economic consultants, who concluded that:

[T]he evidence on pricing behavior as well as market shares in the prime time relevant market for national video advertising is a tacit indicator that the three major networks retain considerable market power despite structural changes in the broader video marketplace since PTAR was implemented in 1971.<sup>34</sup>

The networks' consultant's neglect to discuss *prime time* advertising, thus, is easily understood. However, prime time television advertising is a very relevant market in the Commission's deliberations over the fate of the Prime Time Access Rule.

When the number of networks exceeds the number of stations in a particular market, each network risks having no affiliate in that market. The bargaining power of stations is considerably enhanced in such settings. The appearance of the Fox network has created such a situation in many markets. The emergence of WB and UPN has now strengthened stations' bargaining positions. The recent upheaval in network-affiliate relations referred to above, in which at least 68 stations have changed affiliation since May 1994, is another strong indicator that networks do not "control" affiliates.<sup>35</sup>

This "analysis" is overly simplistic. It wrongly assumes that all networks and all stations are equal. They are not. VHF stations offer networks more coverage than UHF stations. A traditional, full-time, 22 hours per week of prime time programming network brings far more to the table than an emerging network offering two hours of prime time programming several nights a week. Neither UPN nor WB could be considered a substitute for ABC, CBS, or NBC, any more than a "U" on channel 62 is a substitute for a "V" on channel 4.<sup>36</sup>

Furthermore, network affiliates feel blessed by no increase in their bargaining power in the wake of the so-called "upheaval." As the Network Affiliated Stations Alliance has observed:

It is important to emphasize that the recent occurrence of a handful of highly visible affiliation switches among Fox and the three older networks has not diminished the overall leverage exercised by the networks over the body of more than 650 affiliated stations. The affiliation switches that occurred in mid- and late 1994 were the result of a small number of large transaction [*sic*] and were based on a number of highly idiosyncratic factors.<sup>37</sup>

Because of PTAR, ABC, CBS, and NBC affiliates are unable to show first-run network programming during the access period. This restriction harms viewers, advertisers, and producers. It ignores the economic efficiencies that explain the existence of broadcast networks, prevents the realization of those efficiencies during the access period, and causes ABC, CBS, and NBC affiliates to substitute programming that is cheaper and lower rated than first-run network programming.

First-run programming broadcast during the access period now is comparable in many respects to network programming (or, at least, the network programming which would replace it in the absence of the Prime Time Access Rule). Furthermore, the transactional efficiencies claimed by the networks now are available to first-run syndicators. As observed by INTV's economic consultants, certain first-run syndication firms "operate like 'micro-networks' for a few highly rated first run programs during the prime access period."<sup>38</sup> Even the *Economic Analysis* admits that:

Satellite delivery has greatly reduced the costs of interconnection relative to previous land line technology and has also narrowed the differences in costs between full-time and part-time interconnection.<sup>39</sup>

It ultimately concludes that:

...[B]arter-syndication advertising has become an increasingly close substitute for network advertising, and this fact helps explain the growth of first-run syndication.<sup>40</sup>

[T]he estimated CPM (cost per thousand households) for a 30-second spot on a network prime time program in 1994 was \$7.64. In contrast, the CPM for audiences bought through national spot markets on individual television stations in prime time was \$12.29. Thus, by reducing the number of prime time network spots available to advertisers, PTAR has harmed those advertisers who otherwise would have enjoyed lower costs from purchasing the additional inventory of network advertising.<sup>41</sup>

These estimates are unexplained except as to their source. One knows not, for example, whether TvB's definition of prime time includes access time. Furthermore, they appear inconsistent with advertising cost data prepared by the Network Television Association ("NTA") and submitted in Appendix B to INTV's *Economic Report*. This data shows network prime time CPMs ranging from \$9.44 to \$11.17 in 1991.<sup>42</sup>

Moreover, the fact that network CPMs bounced back only marginally after the 1991 recession may be explained by the emergence of direct competition from Fox and first-run syndicators (and now from UPN and WB, as well). Notably, this competition is rooted in the benefits flowing to independent stations under the Prime Time Access Rule.<sup>43</sup>

Therefore, advertisers more likely are far better off with more competition from emerging networks and syndicators offering alternatives to the three entrenched networks. Otherwise, they would be paying higher CPMs to the networks for their prime time advertising.

Network efficiencies make it likely that, without PTAR, many affiliates would find network programming more profitable than syndicated fare.<sup>44</sup>

It is, of course, impossible to predict with certainty that ABC, CBS, and NBC affiliates will find it profitable to choose network programs in the access period, based simply on practices prior to 1970, because relevant conditions may have changed.<sup>45</sup>

Because PTAR constrains ABC, CBS, and NBC from programming in the access period, the benefits of network efficiencies, manifest in higher quality programming, are simply lost, to the detriment of the viewing public. As a result, many viewers are deprived by government fiat of their preferred viewing option -- first-run network programming -- during the access period. Viewers lose because the Rule requires ABC, CBS, and NBC affiliates to air less-expensive, less attractive programs than the network programs that can never be broadcast because of the Rule.<sup>46</sup>

This critical premise of the argument that repeal of PTAR would enhance viewer welfare depends on whether networks and affiliates would broadcast "network quality" programming during access. However, as candidly admitted, predicting affiliate behavior is problematic. INTV's analysis suggests that the profit-maximizing strategy for affiliates is use of off-network programming in the access period.<sup>47</sup> In such case, viewers would suffer a demonstrable welfare loss as loss popular, but more profitable, off-network programs supplanted the popular first-run programs now used by affiliates in access.<sup>48</sup>

This premise also is undermined by the reality that no network will furnish network programming for a limited number of stations. Realization of the network's efficiencies depends on nationwide coverage. Thus, the real question is whether the networks could force all their affiliates to clear access programming. If so, then affiliate discretion is compromised. If not, then consumer welfare is reduced because repeal of the rule results only in the substitution of off-network programs rather than network programs on affiliates during access.<sup>49</sup>

Because program cost, quality and popularity tend to be highly correlated, more expensive first-run network programs tend to attract larger audiences than lower-cost syndicated fare.<sup>50</sup>

Not surprisingly, ABC, CBS, and NBC affiliates are unable to attract as many viewers with the low quality programming the Rule requires them to broadcast. These affiliates' share of the viewing audience is lower during the access period (here, 7:30-8:00 p.m.) than it is during the rest of prime time.

Again, however, the popularity of first-run prime time access syndicated programming rivals that of first-run network programming.

The data fail to support this assertion. First, ABC affiliates in PTAR markets have a lower share in prime time than they do in access (21 versus 22). CBS's shares are only one point higher in prime (18 versus 17). The results, therefore, derive exclusively from NBC affiliates which increase by six share points from access to prime.<sup>51</sup> Similarly, as between 7:30-8 and 8-8:30, ABC affiliates' share decreases from 22 to 18 and CBS affiliates' share is constant at 17. Again, only NBC shows an appreciable gain from 13 to 18.<sup>52</sup>

Furthermore, the lower network shares in access reflect the effect of higher independent and Fox affiliate shares during access (15 versus 12 in prime time proper and 13 versus 12, respectively). Not surprisingly, the share differential for the three entrenched networks is less in non-PTAR markets where Fox affiliates and independents enjoy no benefit of the Prime Time Access Rule -- two share points (63 in prime versus 61 in access) versus six share points in the top 50 markets.<sup>53</sup> Notably, independents in non-PTAR markets show no greater share in access than in prime proper.<sup>54</sup>

Television viewing on Tuesday night during 7:30-8:00 p.m. during the 1971/72 season did not differ significantly from the average level in that period in the previous two seasons. Viewing on the other weekdays from 7:30-8:00 p.m. declined two share points, however, compared to the average of the previous two seasons, and this decline was statistically highly significant....These stark data indicate one dimension of the social costs and viewer harm caused by the Rule.<sup>55</sup>

The "Tuesday test" is unreliable. It looks only to the one year *post*-PTAR in which the networks continued to show network programming at 7:30 p.m.

The viewing decline reflects at most a transition cost. Stations had yet to determine strategies for programming access time; producers and syndicators had yet to develop programming with appeal comparable to that of network programming.

A reliable comparison also must look further back and further ahead in time. This would eliminate effects from near-term trends in viewing and permit evaluation of viewing in a market which had had time to adjust and respond to the effects of the Prime Time Access Rule. The "Tuesday test" cannot extend beyond the 1971-72 season, however, because the networks shifted their prime time programming to 8:00 p.m. the following season.

Furthermore, employing the ratio analysis also used in the *Economic Analysis* produces only very marginal differences between pre- and post-PTAR years.<sup>56</sup> For example, the HUT ratio as between 7:30-8 p.m. and 8-8:30 p.m. was 0.95 on Tuesdays and .94 on other weeknights post-PTAR.<sup>57</sup> The Tuesday night ratio was the same (.95) as the other weeknight ration in 1970-71, while the ration for Tuesday night (.96) was greater than for other weeknights (.95) in 1969-70. These marginal differences are hardly compelling.

...[H]ousehold television viewing behavior during 7:30-8:00 p.m. remained altered beyond the 1971/72 season.

Again, the lack of more data with respect to the pre-PTAR and post-PTAR periods, creates doubts about the validity of this conclusion. In particular, use of only two years in each period does not eliminate effects of near-term viewing trends or permit evaluation of viewing in a market which had had time to adjust and respond to the effects of the Prime Time Access Rule.

When viewed over a more extended period, HUT levels and HUT ratios show no particular effect of the Prime Time Access Rule.<sup>58</sup>

In short, this rough calculation suggests that over \$8 billion per year in viewer welfare was lost because of the rule, starting in 1971....[I]f the estimates above are accurate, and if the loss has continued at its initial rate, the Prime Time Access Rule has cost American viewers more than \$200 billion.<sup>59</sup>

This analysis is unworthy of any weight at all. Initially, as noted in the *Economic Analysis* itself,

[C]ounting households is of course *not the ideal way to measure* the welfare effect of any public policy. From an economic point of view, the impact on viewers is best measured by changes in their consumer surplus, or willingness to pay. *There is no way to measure these consumer surplus changes directly for the Rule*, but it is possible to perform a rough calculation that at least illustrates the viewer losses imposed by the rule.<sup>60</sup>

Thus, even the authors of the *Economic Analysis* discount its significance and reliability.

Second, the analysis is based on another study which also was of dubious reliability. As the authors noted, after delineating a litany of anomalies and mysteries in the results:

In view of these problems some skepticism as to the reliability of the estimates of the other coefficients is warranted. However, *if these problems are overlooked*, estimates of the welfare viewers derive from free television can be made.<sup>61</sup>

Thus, the analysis based on these estimates is constructed without reliable foundation.

Third, the analysis ignores any off-setting benefits from the increased quantity and quality of independent station programming which resulted from the Prime Time Access Rule. If, for example, the Prime Time Access Rule prompted the addition of a second

independent in a market, then that would have more than off-set the loss of network service for one hour a day.<sup>62</sup> Similarly, the use of highly popular off-network programming by independents in access time is the most popular programming on independents. This product of the Prime Time Access Rule would offset any losses in consumer welfare from use of less popular programming by affiliates during access.

Fourth, use of independent station consumer surplus is a poor proxy for consumer surplus from the sort of popular first-run programming which affiliates broadcast in access time. The estimates developed by Noll *et al.* vastly overstate the difference in consumer surplus between network and first-run access programming. The independent versus affiliate comparison is based on results which show that consumers value network affiliates three to four times more than independents.<sup>63</sup> Now, however, during access time, any estimated difference in consumer surplus should reflect use of first-run programming which is often as popular as network programming on affiliates during access. It also should reflect the greater value of independents post-PTAR.

Thus, the *Economic Analysis* offers no reliable evidence of any loss of consumer welfare resulting from the Prime Time Access Rule.

The viewing public chiefly bears the injury caused by [PTAR caused] obstacles to competition. Viewers tuning to a network affiliate during the access period will not see network programming. This causes a loss for many viewers because such programming is likely to have been of higher quality and greater appeal than what is offered. If viewers tune to an independent station during the access period, they will likely see lower quality programming than would have been offered if these stations had to respond to network programming or, in the top-50 markets, to off-network programming on the network affiliates.<sup>64</sup>

As noted above, the quality/popularity differential between first-run network and first-run syndicated programming in access virtually has disappeared.

With respect to independent station responses to competition from network programming, the hypothesis of the *Economic Analysis* is untenable. First, independents facing competition from network programming would be unable to respond as they do now in network prime. With the demise of the Prime Time Access Rule, their "prime time," early-fringe/prime access would be gutted. Their ability to generate revenue in that critical time period would be reduced considerably because the most lucrative hour of the period would be gone. This would undermine their ability to afford the sort of first-run prime time programming which now is programmed by many independents.<sup>65</sup> Furthermore, the economics of first-run programming places first-run syndicated programming of the same quality/popularity now used by affiliates in access out of reach of independents. Again, the continuing UHF handicap also constrains the ability of independents to acquire programming of the same quality/popularity as first-run network programming.

Second, in terms of competing with off-network programming on affiliates, independents could not counterprogram with equally popular off-network or first-run programming. The former would be unavailable; the latter would be unaffordable.<sup>66</sup>

The classic example of reduced competition is a cartel or collusive agreement among competitors. Typically, such an agreement seeks to raise prices in the market by reducing the amount of goods or services provided....PTAR has ironically achieved a reduction in competition among [the networks] similar to what might have been achieved if they had agreed among themselves to reduce output.<sup>67</sup>

The more classic example of an output restriction is the FCC's Table of Allotments, which is tailor-made for a three VHF-based network universe. The limited number of VHF stations has created a caste system in broadcast television, which only has been exacerbated by cable television.

The networks derive enormous benefits from their heavily VHF-affiliate bases. Strong evidence for the value they place on their VHF affiliates is found in how quickly and effectively they have responded to any and all efforts to deprive them of even one VHF affiliate.

PTAR is only a partial antidote, which confers some countervailing benefit on the largely-UHF base of independent stations and emerging network affiliates. Thus, PTAR has enhanced competition by increasing the strength and number of broadcast viewing opportunities for television viewers.

...PTAR provides incentives for new networks to remain small, thus limiting the competition Fox and other new networks would otherwise provide to ABC, CBS, and NBC.<sup>68</sup>

If this were so, the entrenched networks would favor retention of PTAR. In reality, of course, PTAR is a necessary boost for emerging networks. It strengthens affiliates by partially offsetting the UHF handicap.

Secondly, it enables new networks to approach prime time parity with the entrenched networks more quickly. They need program only three hours of prime time per night rather than four.

Third, suggesting that Fox would program three hours per night if PTAR were repealed blinks reality. The 10 o'clock news has become a staple for Fox O&Os and many Fox affiliates. Similarly, prime access is a significant daypart for Fox affiliates (and O&Os).<sup>69</sup> The Fox network has better sense than to rush headlong into programming dayparts which are significant revenue sources for their O&Os and affiliates.

Non-network producers, packagers, and syndicators of first-run programming for the access period compete among themselves, but PTAR has restricted the range of competition they would otherwise face.<sup>70</sup>

With due respect, this is precisely what the rule was supposed to do. With the sunset of the network financial interest and syndication rules on the horizon, the competition from the networks which one might hypothesize is formidable. No longer constrained with respect to active syndication, the networks may control syndication of off-network programming. They also will exert enormous influence in the first-run market via their gatekeeper O&Os in the largest markets. Therefore, if non-network syndicators are to retain any meaningful access to the prime time audience, PTAR remains a necessary feature of the prime time television market.

PTAR has artificially handicapped network affiliates' ability to compete during the access period by reducing their programming options. These handicaps reduce the competition facing Fox, UPN, and WB affiliates and whatever independent stations remain, thus reducing the incentives for these stations to provide desirable programming in the access period.<sup>71</sup>

This is ludicrous. Network affiliates achieve higher ratings than independents during prime access. Moreover, emerging network affiliates and independents retain every incentive to provide desirable programming in the access period. Suggesting otherwise is like suggesting that a hockey team in a power play position would hold back rather than take advantage of their temporary edge.

The *Economic Analysis* also misses the point in suggesting gratuitously that independents could use first-run syndicated programming in the access period. First, once deprived of access to the top tier of off-network programming, independent stations (including emerging network affiliates) would lose their niche. Their counterprogramming strategy would be undone. Second, they could not switch readily to the sort of highly-popular first-run programming now broadcast by entrenched network affiliates in access. They simply do not offer the audience and revenue potential sufficient to support such programming.<sup>89</sup> Third, shifting their prime time programming from 8 p.m. to 7:30 p.m. in line with the entrenched network affiliates and continuing to schedule first-run prime time syndicated programming now broadcast by many (but not most) independents in prime time, also may lack feasibility. The loss of a critical half-hour of the lucrative prime access period would result in reduced revenues and less ability to take the risks inherent in acquiring first-run prime time syndicated programming. Even if a half-hour were gained in late fringe, the value of late fringe is considerably less than the value of prime access.

It is neither necessary nor desirable today to insulate independent stations from competition....The infant industry argument that independent stations require insulation from competition made little sense in 1970 and makes none today.<sup>90</sup>

This position misstates the issue. The issue is not insulation from competition, but a regulatory counterbalance to the networks' equally-regulatory spectrum allotment advantage. It no more is infant industry protection, again, because no amount of time will cure the competitive imbalance inherent in the table of allotments.

Independents as a group have grown strong, a result of forces to which PTAR can hardly have contributed materially, and the independent industry is no longer an infant, Nor will the independent industry be inappropriately disadvantaged.<sup>91</sup>

Again, the Prime Time Access Rule has contributed and quite materially to the growth of independent television.<sup>92</sup> Furthermore, one wonders how independents might be "appropriately" disadvantaged -- perhaps, their being relegated largely to the UHF band. One might even think that from a network perspective no disadvantage to independents would be inappropriate. In any event, the tacit admission that independents might be disadvantaged is noteworthy, as, indeed, independents would be disadvantaged "inappropriately" and materially by repeal of the Prime Time Access Rule. INTV's *Economic Report* predicts prime access and prime time ratings losses for independents if the Prime Time Access Rule or even just the off-network provision is repealed.<sup>93</sup> INTV's consultant's report is based on the most extensive data-base. It also considers the effects of many more variables over a longer span of time.<sup>94</sup>